



February 8, 2007

HOUSE BILL No. 1210

DIGEST OF HB 1210 (Updated February 6, 2007 11:33 am - DI 107)

Citations Affected: IC 4-6; IC 32-34.

Synopsis: Homeowner protection unit account and unclaimed property. Provides that money in the homeowner protection unit account administered by the attorney general does not revert at the end of a state fiscal year. Continually appropriates money in the homeowner protection unit account. Allows the attorney general to publish a notice of unclaimed property electronically on the attorney general's web site instead of in a newspaper if the address of the apparent owner of the property: (1) is not reported to the attorney general by the previous holder of the property; or (2) is outside Indiana. Provides that an electronic notice of unclaimed property must remain on the attorney general's web site for at least two weeks. Provides that if the attorney general's examination of a person's records reveals that the person holds property that is reportable under the law governing abandoned property, the attorney general may assess the cost of the examination against the person at a reasonable rate established by the attorney general. (Current law provides that the attorney general may recover the cost of the examination at a rate of \$200 a day for each examiner.)

Effective: Upon passage; July 1, 2007.

Van Haaften, Koch

January 11, 2007, read first time and referred to Committee on Judiciary.
February 7, 2007, amended, reported — Do Pass.

HB 1210—LS 6970/DI 14+



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February 8, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1210

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-6-12-9 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The homeowner
3 protection unit account within the general fund is established to support
4 the operations of the unit. The account is administered by the attorney
5 general.
6 (b) The homeowner protection unit account consists of fees
7 collected under IC 24-9-9.
8 (c) The expenses of administering the homeowner protection unit
9 account shall be paid from money in the account.
10 (d) The treasurer of state shall invest the money in the homeowner
11 protection unit account not currently needed to meet the obligations of
12 the account in the same manner as other public money may be invested.
13 (e) ~~Before July 1, 2007:~~ ~~(1)~~ Money in the homeowner protection
14 unit account at the end of ~~the~~ a state fiscal year does not revert to the
15 state general fund. ~~and~~
16 ~~(2)~~ **(f)** There is annually appropriated to the attorney general from
17 the homeowner protection unit account ~~money~~ **an amount** sufficient

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for carrying to carry out the purposes of this chapter and IC 24-9.

~~(f) After June 30, 2007:~~

~~(1) money in the homeowner protection unit account at the end of a state fiscal year reverts to the state general fund; and~~

~~(2) money in the homeowner protection unit account may only be spent after appropriation by the general assembly.~~

SECTION 2. IC 32-34-1-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28. (a) Except as provided in subsection (e), the attorney general shall publish a notice not later than November 30 of the year immediately following the year in which unclaimed property has been paid or delivered to the attorney general.

(b) Except as provided in subsection (c), the notice required by subsection (a) must be published at least once each week for two (2) successive weeks in a newspaper of general circulation published in the county in Indiana of the last known address of any person named in the notice.

(c) If the holder ~~(1)~~ does not report an address for the apparent owner or ~~(2)~~ reports an address outside Indiana, the **attorney general shall publish the notice: must be published**

(1) at least once each week for two (2) successive weeks in a newspaper of general circulation published in:

(A) the county in which the holder has its principal place of business within Indiana; or

(B) any other county that the attorney general may reasonably select; or

(2) electronically on the attorney general's web site for a period that the attorney general may reasonably select, but in no case for a period less than two (2) weeks.

(d) The advertised notice required by this section must be in a form that, in the judgment of the attorney general, will attract the attention of the apparent owner of the unclaimed property and must contain the following information:

(1) The name of each person appearing to be an owner of property that is presumed abandoned, as set forth in the report filed by the holder.

(2) The last known address or location of each person appearing to be an owner of property that is presumed abandoned, if an address or a location is set forth in the report filed by the holder.

(3) A statement explaining that the property of the owner is presumed to be abandoned and has been taken into the protective custody of the attorney general.

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(4) A statement that information about the abandoned property and its return to the owner is available, upon request, from the attorney general, to a person having a legal or beneficial interest in the property.

(e) The attorney general is not required to publish the following in the notice:

(1) Any item with a value of less than one hundred dollars (\$100).

(2) Information concerning a traveler's check, money order, or any similar instrument.

(3) Property reported as a result of a demutualization of an insurance company.

SECTION 3. IC 32-34-1-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 42. (a) The attorney general may require a person who has not filed a report, or a person who the attorney general believes has filed an inaccurate, an incomplete, or a false report, to file a verified report in a form prescribed by the attorney general stating the following:

(1) Whether the person is holding any unclaimed property reportable or deliverable under this chapter.

(2) Describing any property not previously reported or as to which the attorney general has made inquiry.

(3) Specifically identifying and stating the amounts of property that may be in issue.

(b) The attorney general, at reasonable times and upon reasonable notice, may examine the records of a person to determine whether the person has complied with this chapter. The attorney general may conduct the examination even if the person believes the person is not in possession of any property reportable or deliverable under this chapter. When making an examination under this chapter, the attorney general may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners.

(c) The attorney general may examine the records of an agent, including a dividend disbursing agent or transfer agent, of a business association that is the holder of property presumed abandoned if the attorney general has given the notice required by subsection (b) to both the business association and the agent at least ninety (90) days before the examination.

(d) If an examination of the records of a person under subsection (b) results in the disclosure of property reportable and deliverable under this chapter, the attorney general may assess the cost of the examination against the holder at ~~the a reasonable rate of two hundred~~

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1 ~~dollars (\$200) a day for each examiner.~~ **established by the attorney**
2 **general.** The cost of an examination of the records of an agent of a
3 business association under subsection (c) may be imposed only against
4 the business association.

5 (e) If a holder fails to maintain the records required under section 43
6 of this chapter and the available records of the holder are insufficient
7 to permit the preparation of a report, the attorney general may require
8 the holder to report and pay an amount that may reasonably be
9 estimated from any available records of the holder or on the basis of
10 any other reasonable estimating technique that the attorney general may
11 select.

12 **SECTION 4. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1210, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 2. IC 32-34-1-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28. (a) Except as provided in subsection (e), the attorney general shall publish a notice not later than November 30 of the year immediately following the year in which unclaimed property has been paid or delivered to the attorney general.

(b) Except as provided in subsection (c), the notice required by subsection (a) must be published at least once each week for two (2) successive weeks in a newspaper of general circulation published in the county in Indiana of the last known address of any person named in the notice.

(c) If the holder ~~(+)~~ does not report an address for the apparent owner or ~~(-)~~ reports an address outside Indiana, the **attorney general shall publish the notice: must be published**

(1) at least once each week for two (2) successive weeks in a newspaper of general circulation published in:

(A) the county in which the holder has its principal place of business within Indiana; or

(B) any other county that the attorney general may reasonably select; **or**

(2) electronically on the attorney general's web site for a period that the attorney general may reasonably select, but in no case for a period less than two (2) weeks.

(d) The advertised notice required by this section must be in a form that, in the judgment of the attorney general, will attract the attention of the apparent owner of the unclaimed property and must contain the following information:

(1) The name of each person appearing to be an owner of property that is presumed abandoned, as set forth in the report filed by the holder.

(2) The last known address or location of each person appearing to be an owner of property that is presumed abandoned, if an address or a location is set forth in the report filed by the holder.

(3) A statement explaining that the property of the owner is presumed to be abandoned and has been taken into the protective custody of the attorney general.

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(4) A statement that information about the abandoned property and its return to the owner is available, upon request, from the attorney general, to a person having a legal or beneficial interest in the property.

(e) The attorney general is not required to publish the following in the notice:

- (1) Any item with a value of less than one hundred dollars (\$100).
- (2) Information concerning a traveler's check, money order, or any similar instrument.
- (3) Property reported as a result of a demutualization of an insurance company.

SECTION 3. IC 32-34-1-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 42. (a) The attorney general may require a person who has not filed a report, or a person who the attorney general believes has filed an inaccurate, an incomplete, or a false report, to file a verified report in a form prescribed by the attorney general stating the following:

- (1) Whether the person is holding any unclaimed property reportable or deliverable under this chapter.
- (2) Describing any property not previously reported or as to which the attorney general has made inquiry.
- (3) Specifically identifying and stating the amounts of property that may be in issue.

(b) The attorney general, at reasonable times and upon reasonable notice, may examine the records of a person to determine whether the person has complied with this chapter. The attorney general may conduct the examination even if the person believes the person is not in possession of any property reportable or deliverable under this chapter. When making an examination under this chapter, the attorney general may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners.

(c) The attorney general may examine the records of an agent, including a dividend disbursing agent or transfer agent, of a business association that is the holder of property presumed abandoned if the attorney general has given the notice required by subsection (b) to both the business association and the agent at least ninety (90) days before the examination.

(d) If an examination of the records of a person under subsection (b) results in the disclosure of property reportable and deliverable under this chapter, the attorney general may assess the cost of the examination against the holder at ~~the a reasonable rate of two hundred~~

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~~dollars (\$200) a day for each examiner.~~ **established by the attorney general.** The cost of an examination of the records of an agent of a business association under subsection (c) may be imposed only against the business association.

(e) If a holder fails to maintain the records required under section 43 of this chapter and the available records of the holder are insufficient to permit the preparation of a report, the attorney general may require the holder to report and pay an amount that may reasonably be estimated from any available records of the holder or on the basis of any other reasonable estimating technique that the attorney general may select."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1210 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 8, nays 0.

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